IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2476 of 2007
Date of decision: 15.3.2007

Amandeep Singh ...Petitioner

Versus

The State of Punjab and others ...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE S.N. AGGARWAL

Present: Mr. RS Khosla, Advocate,
for the petitioner.

Mr. H.S.Sawhney, Senior Advocate with
Mr. B.S. Giri, Advocate, for
respondent No.3.

K.S.GAREWAL, J.

Amandeep Singh has filed this petition to challenge the order of the State Transport Appellate Tribunal, dated January 23, 2007, whereby the appeal of the Patiala Motorway Cooperative Transport Society Limited was allowed and the permit granted to the petitioner by the State Transport Commissioner (STC) was withdrawn and allotted to the above-mentioned Society.

This case relates to grant of two stage carriage permits for two return trips daily from Patiala-Jalandhar route. The period of permit was five years. Applications were invited by the Regional Transport Authority, Punjab, through an advertisement in the Motor Transport Gazette Weekly

on March 22, 2005. 74 parties applied. The contents of their applications were also published in the above mentioned Gazette on July 1, 2005, for inviting objections but no objections were received.

At the time of hearing on March 1, 2006, 14 applicants did not show up. The cases of remaining 60 applicants were considered alongwith the application of the State Transport Undertaking, namely Pepsu Road Transport Corporation. Amandeep Singh was applicant 7. The order of the State Transport Commissioner dated March 1, 2006 shows that Amandeep Singh was an unemployed post-graduate and was 35 years of age. Merits and qualifications of all the applicants were considered, keeping in view inter-se capability and ability and merits of each applicant and also the interest of travelling public who should get regular and complaint free bus service. Amandeep was found to be suitable for grant of one stage permit in the said route. The factor which went in his favour was that he was 35 years of age, was unemployed post-graduate and had crossed the limit for government job. He had knowledge of transport line and in case the permit was granted to him, he would be able to serve the travelling public in an efficient manner. The grant of stage carriage permit would also help him to become self-employed. He had an edge over the other new applicants. The other permit was granted to Pepsu Road Transport Corporation.

There were 13 dissatisfied parties who filed appeals which were heard by the learned State Transport Appellate Tribunal. The appeal of the Patiala Motor Cooperative Transport Society Limited was accepted while all other appeals were rejected. The learned Tribunal felt that STC should have considered the cases of all the new entrants together and should have relied on the judgment of this Court in Daljit Bus Service Private Limited Versus

State Transport Commissioner Punjab 1999 (2) PLR 457. In this case it had been held that a company which has 13 shareholders including Ex-Serviceman, unemployed graduates, members of Scheduled Castes and Backward Classes, if granted permit would have serve the cause of 13 persons. The order passed by STC has only helped one individual.

Patiala Motorway Cooperative Transport Society Limited was a registered cooperative society, five of whose members possessed HTV driver licences, five of whom had conductor licences and one of them was 10+2. On the other hand, Amandeep Singh does not possess a HTV driving licence and has no experience in the transport line but strangely STC has observed that he had sufficient knowledge of transport line. The Society had a better claim than Amandeep Singh. The Tribunal came to the conclusion that grant of the permit to Amandeep Singh had ignored far better potential of the other new entrants particularly Patiala Motor Cooperative Transport Society Limited. The Tribunal gave reasons for ignoring other appellants and preferred Patiala Motor Cooperative Transport Society Limited.

The learned counsel for the petitioners has argued that a well reasoned speaking order in favour of the petitioner has been set aside. STC had considered all the fresh applicants and considered their respective merits and come to the conclusion in favour of Amandeep Singh. The Tribunal also failed to realize that the Society was an entity in itself. The merits of its individual members had no meaning. The Tribunal had wrongly relied upon 2000 (2) PLR 338 The Jind Bhole-Shankar Cooperative Transport Society Ltd. Versus State of Haryana. That ruling was based on entirely different circumstances.

Notice was accepted by the counsel for the Patiala Motor Cooperative Transport Society Limited who was ready with arguments. The learned counsel referred to Daljeet Singh's case (supra) and Jind Bhole-Shankar Cooperative Transport Society Ltd. (supra) and also to the fact that Amandeep Singh had not purchased a new Bus but had taken PB11-AD-5895 on lease from Shiv Motors Pataran on July 3, 2006.

The matter to be considered before the STC was grant of a permit to a deserving applicant. Therefore, the factors to be considered, as dictated by common sense, are the applicant's age, educational qualifications, back-ground, financial capacity etc. In making the comparison between Amandeep Singh and Patiala Motor Cooperative Transport Society Limited, the STC preferred Amandeep Singh because he was an unemployed post-graduate. A new applicant may not have experience in the Transport business but experience could be gained in a short time. The holder of the permit need not be either a driver or a conductor, he can always employ people to drive the bus. A new entrant may also not have a financial capacity to buy a bus, he can take a bus on lease.

Furthermore, granting a permit to an individual would make it worthwhile for him as he would make sufficient profit from the transport operation. Granting permit to a Society of 11 members, 5 drivers, 5 conductors and one 10+2 would not give much profit to individual members although the drivers and conductors would be naturally involved in running the bus of the Society.

In Daljit Bus Service case (supra) the individuals who had been granted permit had not appeared before the Court and had been

proceeded ex-parte, therefore, it is difficult to visualize what the individuals merits were vis-a-vis Daljit Bus Service. In The Jind Bhole-Shankar Cooperative Transport Society Ltd. (supra), it was held that the financial stability of the applicants was a relevant consideration.

The matter to be considered is whether a permit should be given to a solitary individual or to a society consisting of 11 members ? Should the permit be given to one person who may be able to earn reasonable profits by running the bus or to 11 persons who may be able to share managerial and driving duties and also share the profits ? It is easy to see that benefit to 11 individuals though meagre would benefit more persons than a single individual, though his profit may be substantial. We would tend to think that meagre profit to more is better than substantial benefit to one person. This was the criteria on the basis of which this Court had decided the case of Daljit Bus Service. This was also the criteria on the basis of the State Transport Appellate Tribunal had decided in favour of the respondent-Society and against the petitioner.

We find no reason to differ with the view taken by the learned State Transport Appellate Tribunal vide order dated January 23, 2007 (Annexure P/2). The findings are affirmed. The writ petition being devoid of merit is hereby dismissed.

(K.S. GAREWAL)
JUDGE

March 15, 2007 **(S.N. AGGARWAL)**
prem **JUDGE**